

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(NPD)Nos.3430 and 3431 of 2012

S.Karthikeyan

.. Petitioner in both the CRPs

Vs.

P.Jawahar

Represented by His Power agent

D.Paulraj

.. Respondent in both the CRPs

Common Prayer: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the Judgment and Decree passed in R.C.A.Nos.568 and 655 of 2006 respectively, dated 13.07.2012 on the file of the VIII Small Causes Court / Rent Control Appellate Court, Chennai, confirming the Judgment and Decree in R.C.O.P.No.1746 of 2004, dated 23.03.2006, on the file of the XIII Small Causes Court/ Rent Control Court, Chennai.

(In both the CRPs)

For Petitioner : Mr.P.Satheesh Kumar

For Respondent : Mr.K.S.Kumar

COMMON ORDER

The petitioner has filed these Civil Revision Petitions against the Judgment and Decree passed in R.C.A.Nos.568 and 655 of 2006 respectively, dated 13.07.2012 on the file of the VIII Small Causes Court / Rent Control Appellate Court, Chennai, confirming the Judgment and Decree in R.C.O.P.No.1746 of 2004, dated 23.03.2006, on the file of the XIII Small Causes Court/ Rent Control Court, Chennai.

2.These Civil Revision Petitions in C.R.P.Nos.3430 and 3431 of 2012 arising out of the orders passed by the learned Rent Controller and the learned Rent Control Appellate Authority.

3.The respondent herein filed a R.C.O.P.No.1746 of 2004 on the file of the XIII Judge of Court of Small Causes (Rent Control), Chennai seeking for the fixation of fair rent for a portion in ground floor of the premises bearing at door No.48, II Trust Main Road, Mandavelipakkam, Chennai-600 028 at the rate of Rs.8,158/- per

month. The case of the Respondent herein is that the contractual rent for the petition premises is Rs.1,550/-. The petitioner herein also paid a sum of Rs.3,000/- as advance.

4.The petitioner herein filed a counter contending that the respondent herein is not the owner of the petition premises and the petition premises belongs to the Tamil Nadu Slum Clearance Board. He also pleaded that the contractual rent is Rs.600/- per month. The Rent Controller (XIII Court of Small Causes), Chennai after valuing the land at Rs.20,00,000/- and cost of the construction for AC roofing at Rs.251/-, for Thatched roofing Rs.50/- and also awarding 10% towards basic amenities fixed the monthly rent at a sum of Rs.3,268/-.

5.Aggrieved by the said order, the petitioner herein preferred an appeal in R.C.A.No.568 of 2006 before the learned Appellate Authority (VIII Court of Small Causes) Chennai. The respondent herein preferred an appeal in R.C.A.No.655 of 2006 seeking for enhancement of fair rent. The learned Rent Control Appellate Authority by a common order dated 13.07.2012 dismissed both the appeals and confirmed the fair rent fixed by the learned Rent Controller. Aggrieved by the same the petitioner herein has preferred

the instant Civil Revision Petitions.

6. Admittedly, the land for the petition premises belongs to the Tamil Nadu Slum Clearance Board. There is an expressed prohibition that the premises cannot be let out. The respondent herein based on illegal purchase of building, violating the law and without obtaining allotment of land from the Slum Clearance Board applied for fixation for fair rent. The relationship between the respondent herein and the petitioner herein is per se illegal. Therefore, the relief sought for by the petitioner for the fixation of fair rent is not all maintainable.

7. Apart from this, this Court passed detailed orders in C.R.P.Nos.3428 and 3429 of 2012 and held that the petition mentioned premises belongs to the Tamil Nadu Slum Clearance Board and the respondent herein filed eviction petition without obtaining permission from the Tamilnadu Slum Clearance Board is a clear bar under Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1927. In view of the finding given in the said civil revision petitions, no detail order is required in this C.R.P.s. Thus, the petition for fixation of rent is liable to be rejected. Therefore the order passed by the learned Rent Controller and confirmed by the learned Appellate Authority are liable to be set-aside, accordingly

set-aside.

8.In the result, both the civil revision petitions are allowed and the orders and decrees passed by the R.C.A.Nos.568 and 655 of 2006 dated 13.07.2012 by the VIII Small Causes Court/ Rent Control Appellate Court, Chennai, confirming the Judgment and Decree in R.C.O.P.Nos.1746 of 2004 dated 23.03.2006 on the file of the XIII Small Causes Court/ Rent Control Court, Chennai are set aside. There is no order as to costs.

22.03.2017
(1/2)

Index:Yes
Internet:Yes

vs

To

- 1.The VIII Small Causes Court /
Rent Control Appellate Court, Chennai.
- 2.The XIII Small Causes Court/
Rent Control Court, Chennai.

M.V.MURALIDARAN, J.

VS

Pre-Delivery order made in
CRP(NPD)Nos.3430 and 3431 of 2012

22.03.2017
(1/2)